

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**FILED**

MAR - 5 2012

Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia

JUDICIAL WATCH, INC.  
425 Third Street, SW, Suite 800  
Washington, D.C. 20024,

Plaintiff,

v.

FEDERAL HOUSING  
FINANCE AGENCY,  
1700 G Street, N.W.  
Washington, DC 20552,

Defendant.

Civil Action No.

Case: 1:12-cv-00346  
Assigned To : Jackson, Amy Berman  
Assign. Date : 3/5/2012  
Description: FOIA/Privacy Act

**COMPLAINT**

Plaintiff Judicial Watch, Inc. brings this action against Defendant Federal Housing Finance Agency ("FHFA") to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"). As grounds therefor, Plaintiff alleges as follows:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

**PARTIES**

3. Plaintiff is a non-profit, educational foundation organized under the laws of the District of Columbia and having its principal place of business at 425 Third Street, SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. In furtherance of its public interest mission, Plaintiff

regularly requests access to the public records of federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

4. Defendant is an agency of the U.S. Government and is headquartered at 1700 G Street, N.W., Washington, DC 20552. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

### **STATEMENT OF FACTS**

5. On September 20, 2011, Plaintiff submitted a FOIA request to Defendant, by email and certified mail, seeking access to the following public records:

Records of, indicating, and/or demonstrating the losses that Fannie Mae and Freddie Mac incurred on private-label mortgage-backed securities (PLS) purchased from 17 financial institutions. The specific financial institutions from which the securities were purchased are identified in the enclosed FHFA press release announcing its lawsuit, as conservator for Fannie Mae and Freddie Mac, seeking damages and civil penalties under the Securities of 1933.

6. FHFA denied Plaintiff's request by letter dated October 25, 2011. FHFA's denial letter stated that it was declining to search for or review the requested records and that any such records were being withheld under one or more of four exemptions under FOIA. By letter dated November 1, 2011, Plaintiff timely appealed FHFA's determination.

7. By letter dated December 9, 2011, FHFA informed Plaintiff that it was processing Plaintiff's appeal and that a final determination of the appeal would be forthcoming on or before December 19, 2011. To date, Plaintiff has received no such determination on its appeal.

8. Pursuant to 5 U.S.C. § 552(a)(6)(A)(ii), FHFA was required to make a determination with respect to Plaintiff's appeal within twenty (20) working days after receipt of the appeal and to notify Plaintiff immediately of its determination, the reasons therefor, and the right to seek judicial review. Accordingly, the FHFA's determination on Plaintiff's appeal was due by December 19, 2011 at the latest.

9. As of the date of this Complaint, FHFA has failed to: (i) make a determination with respect to Plaintiff's appeal; (ii) notify Plaintiff of any such determination or the reasons therefor; (iii) advise Plaintiff of the right to seek judicial relief of any adverse determination; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

10. Because FHFA failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its request, pursuant to 5 U.S.C. § 552(a)(6)(C).

**COUNT 1**  
**(Violation of FOIA, 5 U.S.C. § 552)**

11. Plaintiff realleges paragraphs 1 through 10 as if fully stated herein.

12. Defendant is unlawfully withholding public records requested by Plaintiff pursuant to 5 U.S.C. § 552.

13. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of the requested public records, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

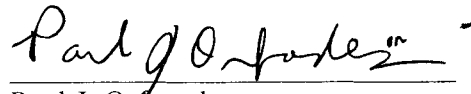
WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct a search for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of

attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: March 5, 2012

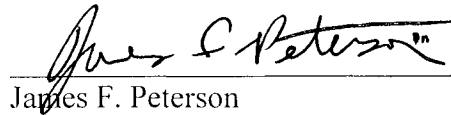
Respectfully submitted,

JUDICIAL WATCH, INC.

A handwritten signature in black ink, appearing to read "Paul J. Orfanedes", written over a horizontal line.

Paul J. Orfanedes

D.C. Bar No. 429716

A handwritten signature in black ink, appearing to read "James F. Peterson", written over a horizontal line.

James F. Peterson

D.C. Bar No. 450171

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(202) 646-5172

*Attorneys for Plaintiff*